

IN THE TENNESSEE SUPREME COURT
AT NASHVILLE

STATE OF TENNESSEE)	
)	
v.)	No. M1999-01334-SC-DPE-PD
)	Filed: March 26, 2007
PHILIP RAY WORKMAN)	

REPLY ON MOTION TO VACATE EXECUTION DATE

The state misapprehends Philip Workman's motion. Certainly, if the Legislature passes new legislation "at some point prior to May 9" (Response, p. 2) a stay would be appropriate. Philip Workman's point is that the General Assembly will not complete its work until *after May 9*. It would be manifestly unfair and unjust for Philip Workman to be executed at 1:00 a.m. on May 9, should the General Assembly pass legislation the morning of May 9 or afterwards which would mean that Philip Workman should not be executed. That is a real possibility.

As the repository of the Judicial authority of Tennessee, this Court has a duty to insure that such arbitrary action and injustice does not occur. While the state sees no problem with killing Philip Workman an hour, a day, or weeks before the General Assembly would prohibit it, the People of Tennessee would recoil at such a notion. That is precisely why this Court should take the eminently reasonable step of re-setting it to a date following the conclusion of the General Assembly and/or vacating the date subject to being reset after May 2, 2007.

Moreover, while the Commissioner of Correction is evaluating execution protocols until May 2, 2007, there is no guarantee that such protocols will, in fact, be constitutional. With a May 9 execution date looming, Philip Workman would have virtually no time to evaluate any new protocols. This, too, counsels in favor of vacating the current execution date.

The motion to vacate the date should be granted.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been sent via first-class mail to Joseph Whalen, Office of the Attorney General, 425 5th Avenue North, Nashville, Tennessee 37243 on this ____ day of March, 2007.

Exhibit 1

Exhibit 2

Exhibit 3

Exhibit 4

Exhibit 5